

HOUSE BILL 3290  
By Kernell

AN ACT to amend Tennessee Code Annotated, Title 66,  
Chapter 4, relative to real estate settlement agents  
and to prohibit the mandatory selection of a  
settlement agent for one party by another party.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 66, Chapter 4, is amended by adding sections 2 - 8 as a new part 4.

Section 2. The provisions of this act shall be known and may be cited as the "Real Estate Settlement Agents Act".

SECTION 3. "Settlement agent" means the person, responsible for conducting the settlement or disbursing the settlement proceeds in a real estate transaction, and includes any individual, corporation, partnership, or other entity conducting the settlement, collection and disbursement of loan proceeds.

SECTION 4. No contractual provision mandating the selection or use of a real estate settlement agent or attorney by one party to a real estate contract, imposing such obligation on another party to the contract, shall be enforceable.

SECTION 5. No party to a real estate contract shall attempt to enforce against any other party any provision specifying the use of any particular title settlement agent, attorney, issuing title agent or underwriter as a condition for the receipt of any benefit by any party or coerce such use by any means or incentive.

SECTION 6. Any party that attempts to enforce a provision that is prohibited by §66-4-403 shall be liable to the party that is being so coerced for the sum of one thousand dollars (\$1,000), together with double the cost of the closing service attempted to be controlled and the

title insurance premium attempted to be controlled, or both, plus reasonable attorney's fees and the cost of enforcement of any action to enforce compliance with these provisions.

SECTION 7. Any party may bring an action in chancery court for declaratory or injunctive relief to prevent any violations of this part or for prosecution of the penalties as set forth herein.

SECTION 8. Nothing in this act shall prevent a lender, that is financing a purchase or refinance transaction, from maintaining a list of settlement agents that it approves to close its transactions.

SECTION 9. This act shall take effect July 1, 2006, the public welfare requiring it.